

FILED
1/23/2024

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
AXA EASTERN DIVISION

**THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT**

CLERK, U.S. DISTRICT
Those Characters From Cleveland, LLC,

Plaintiff,

V.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE A HERETO.

Defendants.

Case No.: 23-CV-15080

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Judge: Franklin U. Valderrama

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Magistrate: Jeffrey T. Gilbert

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DEFENDANT NO. 243, UNDEADREDNECK'S EXHIBITS

IN SUPPORT OF MOTION TO DISMISS COMPLAINT WITH PREJUDICE



/s/Mike Lauzon

(The Rest Of This Page Has Been Intentionally Left Blank)

EXHIBIT A

EXHIBIT A

Screenshots showing Defendants TeePublic page

10/8/23, 8:51 AM

Bear T-Shirts by Undeadredneck | TeePublic

FREE US Shipping for Orders \$80+

My Account Cart Upload Art

Bear T-Shirts by Undeadredneck | TeePublic

Plaintiff search bear on Defendants page

Undeadredneck

Halifax, Nova Scotia, Canada, earth?

Follow

About Undeadredneck
My name's mike, I work a Mon to Friday job, and draw in my spare time. Well anyways thanks for stopping by and have a good day!

Hire This Artist

Albums:

- Christmas

Adult Apparel

- T-Shirts
- Tank Tops
- Hoodies
- Crewneck Sweatshirts
- Long Sleeve T-Shirts
- Baseball T-Shirts

Kids Apparel

- Kids T-Shirts
- Kids Hoodie
- Kids Long Sleeve
- Baby Bodysuit

Home Goods

- Wall Art
- Mugs
- Pillows
- Totes
- Tapestries
- Pins

Cases & Stickers

- Phone Cases
- Stickers
- Magnets

Designs: 216 Following: 1 Followers: 21

bear

Seller information confirming, Defendant is in Canada

Defendant's own logo here, shows no resemblance of Plaintiff's

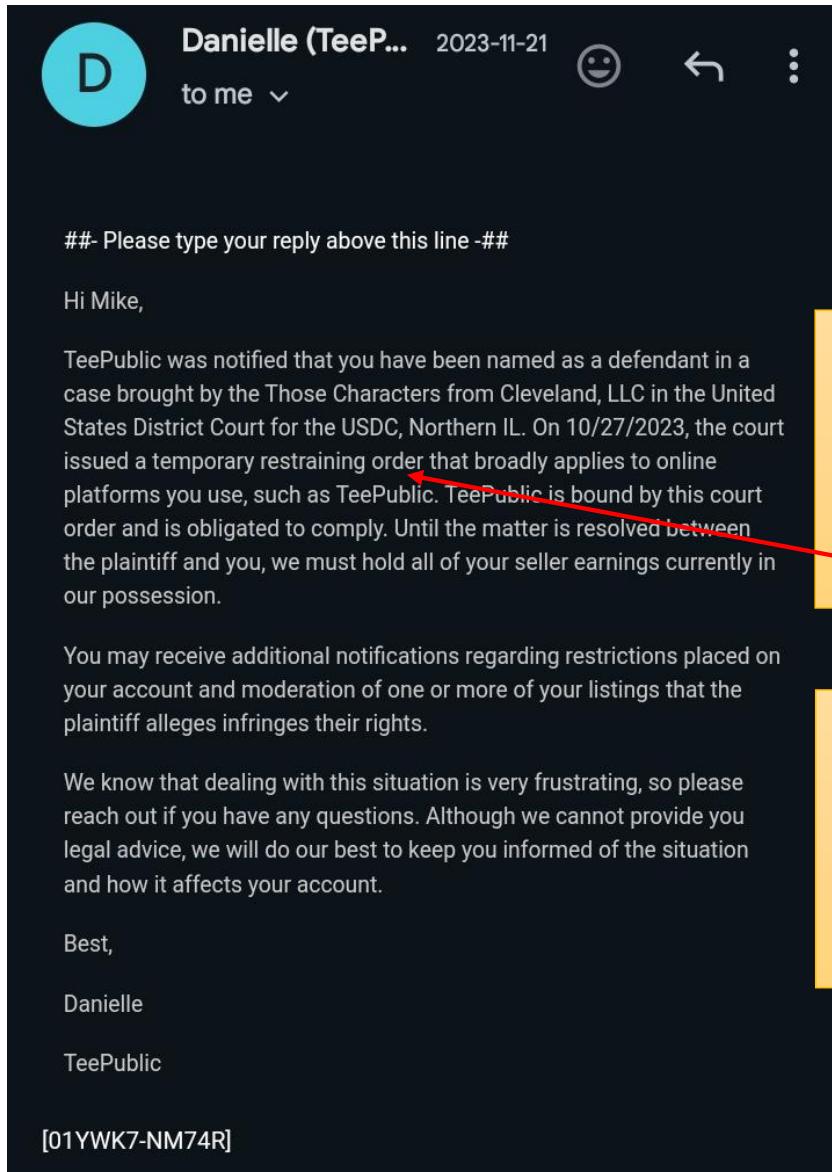
Pablo escobear T-Shirt \$22

T bear T-Shirt \$22

Defendant has written a little about themselves. This indicates a private individual, drawing their designs.

EXHIBIT B

EXHIBIT B
Screenshots of email received from TeePublic



This email from TeePublic is the first notification.

TeePublic quite clearly state they are withholding ALL earnings that they have. Not just for the alleged item.

This email does not state anywhere about how Defendant should contact Those Characters from Cleveland LLC, or in fact who they are.

There is no mention of Care Bears anywhere in the email.

EXHIBIT C

EXHIBIT C – Figure 1
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 1 - First Email from Plaintiff's Counsel

23-cv-15080 / Those Characters from Cleveland, LLC. v. The Partnerships et al. / Northern District of Illinois  **Inbox**

 **William B. Kalbac...** 2023-11-21   

to 

Dear Sirs:

The defendants operating the Defendant Internet Stores listed in Amended Schedule A to the Amended Complaint are hereby advised:

Plaintiff has charged Defendants with violations of United States federal and state laws prohibiting trademark infringement.

A copy of the Complaint, Temporary Restraining Order, Preliminary Injunction Order, Motion for Entry of Preliminary Injunction, Memorandum in Support of Motion Entry of Preliminary Injunction, and Summons are attached.

These and other legal documents may be obtained from Plaintiff's attorney, William B. Kalbac, trademark@hspllegal.com, and at the following website  [Service Link - 23-cv-15080](#).

Any answer or other response to the Complaint should be filed with the Clerk of the Court, United States District Court for the Northern District of Illinois, Eastern Division, Chicago, Illinois within twenty-one (21) days from the day you receive the summons.

If no appearance or pleading is filed, the Court may render a judgment against the defendants.

As always, if I can be of further assistance, please call or e-mail.

Sincerely,

William B. Kalbac

William B. Kalbac, Partner

 **HUGHES SOCOL PIERS RESNICK & DYM, LTD.**
70 W. Madison St., Suite 4000
Chicago, IL 60602

Dir: 312.604.2734 Fax: 312.604.2735

Click to send me files.

This is the initial email from Plaintiff's attorney.

It does not mention anywhere that Defendant is being SUED.

It only mentions Trademark infringement in the email, yet the documents say Copyright infringement also.

It doesn't inform any layman, like Defendant what to do or what it means. It doesn't inform any layman, like Defendant that legal advice should be sought, nor does it inform Defendant what a default judgment

The documents were attached as PDF's as stated. Along with a link to a document sharing space. (Service Link)

EXHIBIT C – Figure 2
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 2 - Defendant's First and Second Replies to Plaintiff's Counsel

On Tue, Dec 19, 2023, 9:12 a.m. Mike L <mike.t.lauzon@gmail.com> wrote:

Good morning,

I am unsure if you got my previous email, (on november 22nd)and I forgot to mention my online name there at teepublic I am undeadredneck, and the one design that didn't sell was a parody design a mr t [bear](#). I am attaching the sales report on the shirt.

As it's a parody I don't believe this applies to me. As I do shirt parodies for a side job. I do not have the funds to travel to illinois to represent myself. I am currently in halifax nova scotia, there was a design was taken down immediately. Hope you are well in the season

If any further questions arise email me here

Sincerely

Mike

mike.t.lauzon@gmail.com

Defendant's 2 attempts to contact Plaintiff's counsel are shown in this screenshot as an email trail.

In both attempts Defendant, explains the design is a parody, it didn't sell, and how Defendant is in Canada.

Defendant attached the sales report to prove zero sales, in the second email.

The trail is a direct reply to the email from Plaintiff's attorney on 21st November.

On Wed, Nov 22, 2023, 5:29 a.m. Mike L <mike.t.lauzon@gmail.com> wrote:

Good morning,

Hope all is well with you, so I've been named in this for a design that was a parody design of mr t as a care bear, that didn't sell anyways. As to me being in halifax ns, and can not afford a trip to Cleveland anytime soon, let alone a lawyer to look through this and the one drive is associated to a old phone number I no longer own.

I cannot attend this, as my designs usually get me groceries funds if that anymore.

Is there something I can fill out to squash this whole issue and not add anymore stress to a very stressful situation.

Mike

On Tue, Nov 21, 2023, 7:12 p.m. William B. Kalbac <wkalbac@bnplegal.com> wrote:

EXHIBIT C – Figure 3
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 3 - Defendant's 3rd email to Plaintiff's Counsel

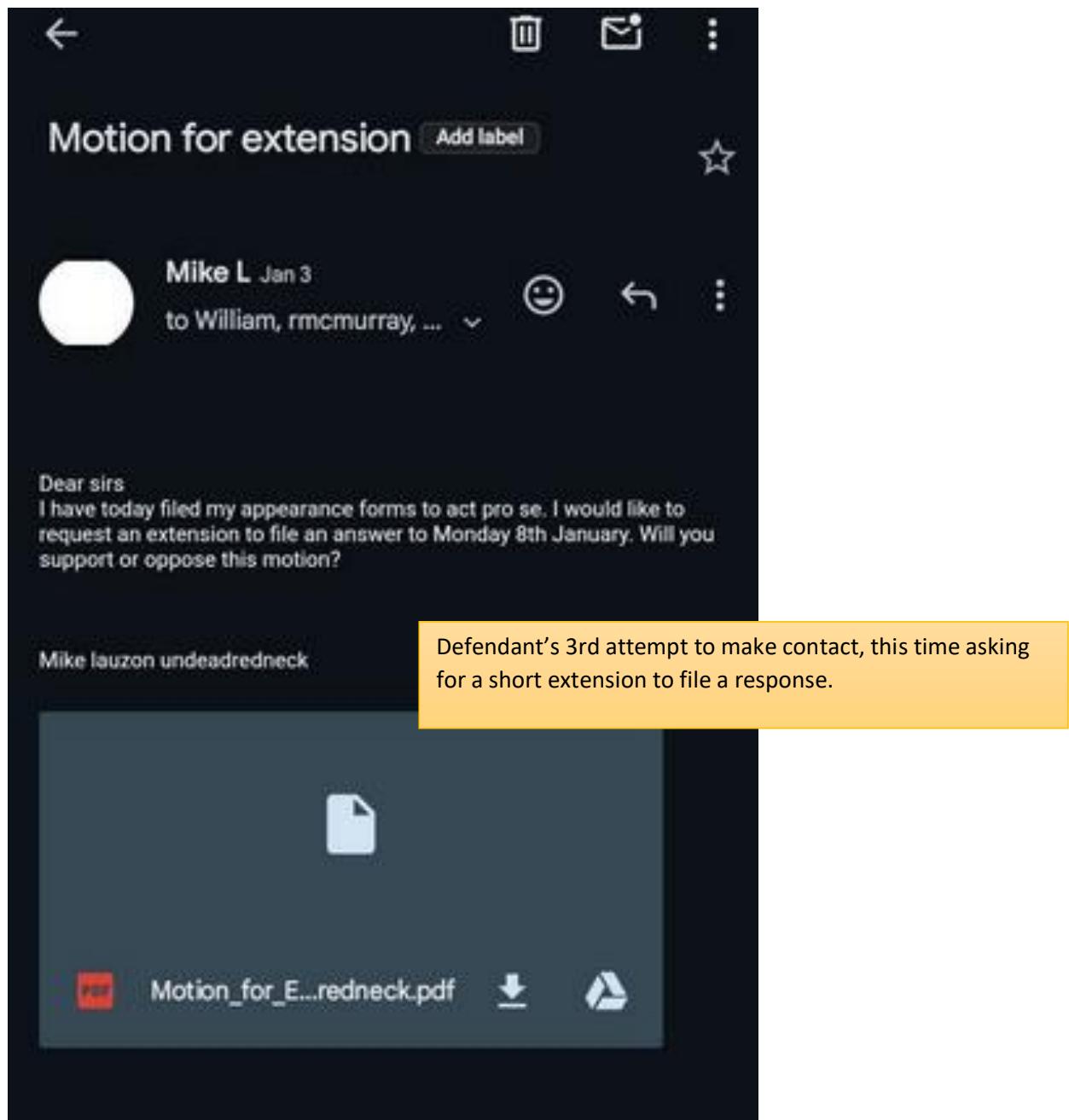


EXHIBIT C – Figure 4
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 4 – Defendants 4th email to Plaintiff's Counsel

Confr on motion to dismiss ➤ **Inbox** **☆**

Mike L Jan 9
to William, trademark ▾

Dear Sirs,

Defendant's 4th attempt to make contact. IMPORTANTLY, this time Defendant changed the email subject in hope that it would get the attention of Plaintiff's counsel.

The email referenced the email trail, so Plaintiff's counsel could clearly see Defendant's previous attempts within the same conversation.

Defendant reasserts lack of sales and the intention to file a motion to dismiss, along with being a sole trader in Canada

As per the email trail above, I am writing to you further as there are no sales in the state of Illinois let alone any sales at all. I will be submitting a motion to the court to dismiss for lack of personal jurisdiction along with an affidavit showing zero sales in Illinois and anywhere else.

Your clients restraint on my account in its entirety may not seem significant to you, but to me that supplements my income. The money on hold and complete restriction of my designs is not necessary as they have no link to your client. I have not sold any of the alleged infringing items as accused. Restricting my entire business is overreaching. I am a sole trader in Canada, not a defendant by any of the descriptions in the complaint.

Would your client oppose me submitting a motion to dismiss? I shall be submitting this in due course, by the end of this week. Or would your client dismiss me now with prejudice, to avoid any unnecessary work on both our parts?

Sincerely

Mike lauzon
(Undeadredneck defendant 243)

On Tue, Dec 19, 2023, 9:17 a.m. Mike L <mike.t.lauzon@gmail.com> wrote:

On Tue, Dec 19, 2023, 9:12 a.m. Mike L <mike.t.lauzon@gmail.com> wrote:
Good morning,

I am unsure if you got my previous email, (on November 22nd) and I forgot to mention my online name there at teepublic I am undeadredneck, and the one design that didn't sell was a parody design a mr t bear. I am attaching the sales report on the shirt.

As it's a parody I don't believe this applies to me. As I do shirt parodies for a side job. I do not have the funds to pay for legal counsel, nor a trip to Illinois to represent myself although it is a lovely state.

I am currently in Halifax Nova Scotia, there was a DMCA and the design was taken down immediately. Hope you have a great holiday season

EXHIBIT C – Figure 5
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 5 – Second Email from Plaintiff's Counsel

W

William B. Kalbac Jan 9
to me ▾

Mike,

Attached is the evidence of infringement. You have infringed both of our client's trademarks and copyrights, which entitles our client statutory damages up to \$150,000.

However, our client is more interested in deterring infringement than attempting to profit from its anti-counterfeiting campaign. The lowest our client is willing to settle this matter for is \$1,000. Please advise whether you agree to these terms.

Our client also opposes your motion to dismiss.

Regards,
Bill

First reply from Plaintiff's counsel.
Evidence screenshots were attached so Defendant could finally attempt to establish what Plaintiff was claiming.



William B. Kalbac, Partner
HUGHES SOCOL PIERS RESNICK & DYM, LTD.
70 W. Madison St., Suite 4000
Chicago, IL 60602
Dir: 312.604.2734 Fax: 312.604.2735
Click to send me files.

Show quoted text

EXHIBIT C – Figure 6
Screenshots of Emails Between Plaintiff's Counsel and Defendant

Figure 6 - Defendant's 5th email to Plaintiff's Counsel

Defendant's 5th email to Plaintiff's counsel.

Defendant again asserts zero sales, no contacts, refers to a case, references parts from the complaint and how they don't apply.

Defendant assert the alleged item will not be relisted, there was no intention and the drawing was hand drawn in good faith.

Hi Bill

Thank you for providing the evidence. Your evidence only shows it is possible to purchase a tshirt from Teepublic and have it posted to Illinois. This does not show personal jurisdiction exists.

As i've said previously, I have made zero sales of this item. This is not enough to form any minimum contacts with Illinois. I have no contacts with Illinois in any way to meet the minimum contacts required for personal jurisdiction. See, Rubik's Brand, Ltd.v. Partnerships, 2021 WL 825668, at *4 (N.D. Ill. Mar. 4, 2021) "That an Illinoisan might someday find [the defendant's] website and decide to purchase a counterfeit Rubik's product from the site simply does not suffice to vest the Court with personal jurisdiction over [the defendant]."

Your client should not have any concerns about me. I am nothing like the complaint describes.

For instance "Internet websites like the Defendants' Internet Stores are also estimated to contribute to tens of thousands of lost jobs for legitimate businesses and broader economic damages such as lost tax revenue." Firstly, what is the proof that my teepublic account fits anything like this description? Also the complaint is clearly targeting Chinese sellers in the main and it feels like your client has simply thrown in my drawings in hope of getting some extra money, when in fact they don't have any jurisdiction, and I am not the defendant they describe.

Please ask your client, one last time if they will dismiss. Without admitting in any way that the complaint states a claim, I will of course agree not to list the drawings again. However, I cannot afford and do not agree to any form of payment for a drawing I drew in good faith with no intention to infringe and one where your client would not have had any damage caused by me.

Thanks Mike

Show quoted text

EXHIBIT D

Exhibit D
Sales / Commission Information

TeePublic Removal Report for Seller Undeadredneck[12/6/23] : Those Characters from Cleveland LLC[CONFIDENTIAL]						CONFIDENTIAL	
Work ID	Work URL	Image	Design Title	Seller Username	Seller Email Address	Units Sold	Seller Earnings (USD)
29365229	http://www.teepublic.com/t-shirt/29365229		T bear	Undeadredneck	mike t. lauzon@gmail.com	0	\$0.00

This report has been provided by TeePublic and also emailed to Plaintiff. It shows the non-infringing item's title, image, Defendant username, Defendant's email address, and the ZERO (0) sales and ZERO (0) commission earned.

EXHIBIT E

EXHIBIT E – Figure 1
PLAINTIFF'S EVIDENCE SCREENSHOTS

The evidence page is very long, and for clarity here, the screenshots on these pages have been cropped to remove whitespace and any sponsored listings which take up space.

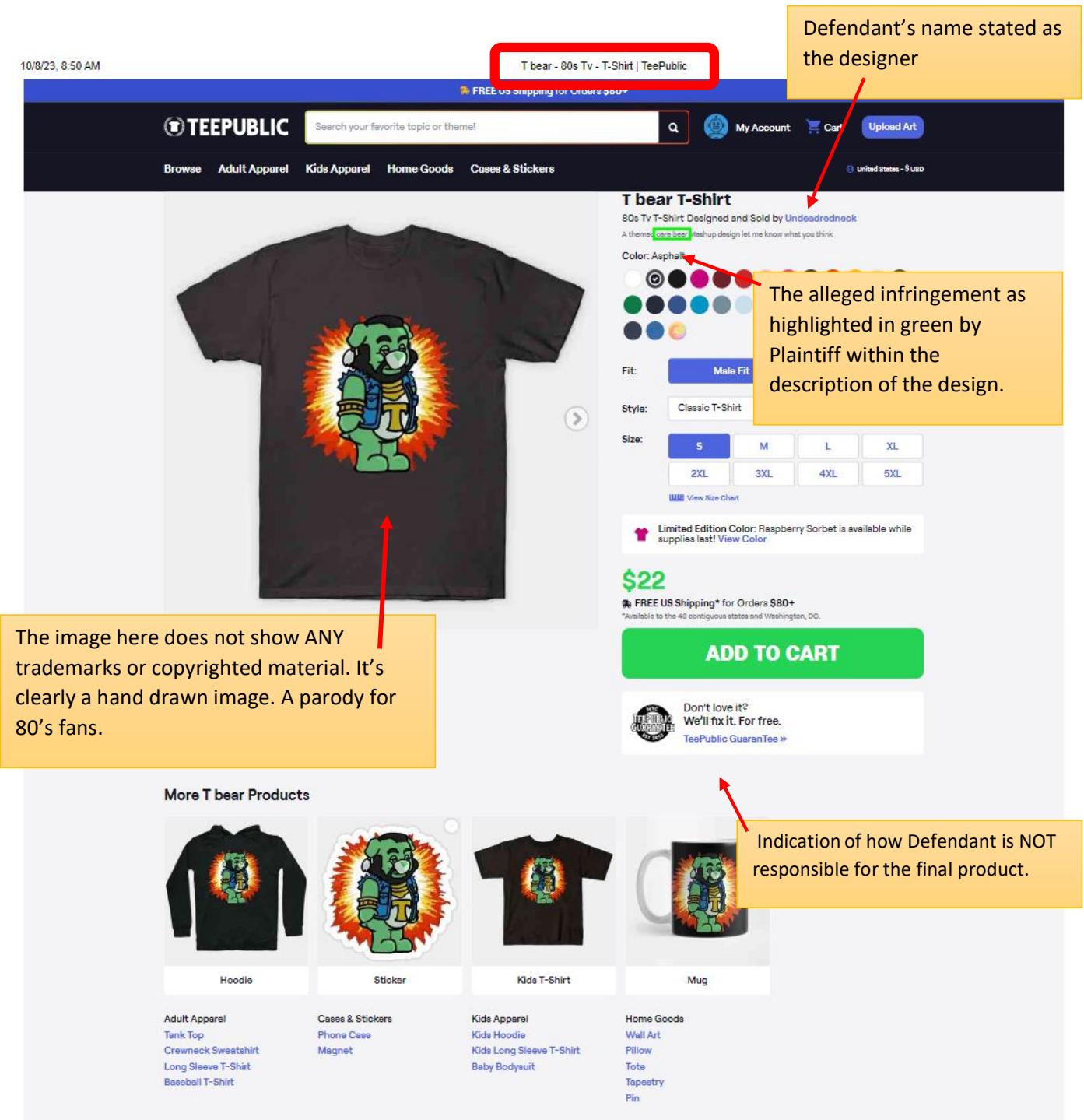


Figure 1 - Plaintiff's Evidence Screenshots

EXHIBIT E – Figure 2
PLAINTIFF'S EVIDENCE SCREENSHOTS

This part of the screenshot shows the item specifics and description for the alleged infringing item

Figure 2 - Plaintiff's Evidence Screenshots

The tags care bears, mr t and the a team, are used to communicate with consumers, indicating a mash up

80s Tv T-Shirt

Where can I find other 80s tv designs?

In addition to 80s tv designs, you can explore the marketplace for 80s, 80s fashion, and 80s movies designs sold by independent artists.

What material is this item made of?

100% combed ringspun cotton. The perfect fabric for a graphic tee and the softest in the business. (Due to product availability, cotton type may vary for 2XL and 3XL sizes)

[Learn More »](#)

What USA ship methods are available?

UPS MI Domestic (6-8 Business Days)
FedEx 2-Day (4-6 Business Days)
Estimates include printing and processing time. [More](#)

What is the Return/Exchange policy?

We want you to love your order! If for any reason you make things right. [Learn More »](#)

More content to explore

piglet water bottle stickers girl trip tee shirt bicycle logo stickers st patrick day boys shirts african t shirts for ladies dad with daughters shirt
asian pacific american heritage month flag ukraine house flag kenya flag irish italian shirt bacon tshirt first responder pine 80s style t shirts aruba t shirts
earth wind and fire posters

The links above have been automatically generated based on tag usage by third-party designers on the TeePublic platform.

Similar to T bear

Designer's Applied Tags

80s tv 1980s 80s kid 80s retro animation bear care bears cartoons mr t retro style the a team
vintage undeadredneck

Customers Also Search

80s tv hoodies 80s tv long sleeve t-shirts 80s 80s fashion
80s movies 80scartoons 90s newest t-shirts

Share this design

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EXHIBIT E – Figure 3
PLAINTIFF’S EVIDENCE SCREENSHOTS
Checkout Page

Figure 3 - Plaintiff's Evidence Screenshots

10/8/23, 8:52 AM

TeePublic